

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

KIRBY GARDNER, #1003719

V.

DOUG DRETKE, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONS
INSTITUTIONS DIVISION

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CIVIL ACTION NO. G-06-245

ORDER OF DISMISSAL

Before the Court for its Order of Acceptance is a Report and Recommendation of the Magistrate Judge, entered on May , 2006, which recommends that the Application for Writ of Habeas Corpus of Kirby Gardner be dismissed with prejudice. Petitioner has filed objections to the Report and Recommendation, expatiating on various aspects of the Due Process Clause but failing to rebut the fact that he is ineligible for mandatory supervision. Petitioner's objections have no merit.

Having given this matter *de novo* review as required by 28 U.S.C. §636 (b)(1)(C), this Court finds that the Report and Recommendation of the Magistrate Judge is a well reasoned and correct application of applicable law and it is, hereby, **ACCEPTED** in its entirety and incorporated by reference herein.

It is, therefore, **ORDERED** that the Application for Writ of Habeas Corpus of Kirby Gardner is **DISMISSED** with prejudice.

DONE at Galveston, Texas, this the 22nd day of June, 2006.



Samuel B. Kent
United States District Judge